REMARKS

The Office Action and the cited and applied reference have been carefully studied. No claim is allowed. Claims 1, 15-21 and 23-27 presently appear in this application, with claims 15-19 and 24-27 withdrawn by the examiner, and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

The telephonic interview among the undersigned and Examiner Mertz on January 15, 2008, is gratefully acknowledged. Claims 1 and 22 and the 35 U.S.C. §103 obviousness rejection were discussed. It was agreed that US Patent 5,158,934 was inadvertently cited and applied against claims 1 and 22. The correct reference in the §103 obviousness rejection should be US Patent 6,440,694 of record, which was applied in the previous non-final Office Action.

Claims 1 and 20-23 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite because the examiner states that it is unclear from the recitation of "originating from a human cytokine" in claim 1 whether it is the excipient or the peptide that originates from a human cytokine. This rejection is obviated by the amendment to claim 1 to clarify that it is the peptide and not the excipient that originates from a human cytokine. This amendment does not raise any new issues.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1 and 22 have been rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 5,158,934 (actually US Patent

6,440,694 as discussed above). This rejection is obviated by the cancellation of claim 22 without prejudice and the amendment of claim 1 to delete the recitation of SEQ ID NO:7.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Applicant understands from the examiner that the sequence search initially conducted on SEQ ID NOs:5, 6, 7 and 39 also encompassed a search for the remaining non-elected sequences SEQ ID NOs:2, 3, 37, 4, 38, 25 and 26 recited in the present claims. Applicant respectfully requests the examiner to rejoin any of these non-elected sequences if they are not anticipated by the prior art sequences identified in the sequence search that had previously been conducted.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By /ACY/
Allen C. Yun
Registration No. 37,971

ACY:pp
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\P\Plas\Zagury9\Pto\2008-02-01amdfinal.doc